

Annotation

Dissertation deals with relation between property right and nature conservation and landscape protection, their mutual connections, discrepancies and solutions of their conflicts.

In first part property right is described as one of the basic institutes of private law, which also belongs among basic human rights and freedoms and it is incorporated in constitutional documents of the Czech Republic – Constitution and Charter of Fundamental rights and Basic Freedoms. This part contains brief history of the property right, its incorporations into law order of the Czech Republic (including future adjustment in new Civil Code No. 89/2012 Coll.), its basic attributes, and legal ways of its limitations and ablation, furthermore this part contains legal definition of the thing, also appurtenance and component parts and means of property right protection are mentioned. Property rights of all persons has the same meaning and enjoys the same protections, its execution cannot be limited but only by law and for reimbursement. Equally the property right cannot be abused to cause harm to someone else's rights or be in contradiction to public interests (cannot harm human health, nature or environment beyond limits determined by law). Preservation to environment, nature conservation and landscape protection creates one of those limits of execution of personal property rights.

Next part of the dissertation describes the main environmental legal regulations. It highlights restrictive character of most of them, and analyze of their practical impact into execution of the property right is made here; special accent is paid on limits set by nature protection for forest and lands management in protected areas. Those limits are evolved from protection level of particular area; strictness of this protection depends on biological, nature and scientific value of the area. Last part of this section defines constitutional right on favorable environment as part of the constitutional documents of the Czech Republic.

Following part of dissertation describes in detail situations when those main institutes of law – property right and environmental protection come into contrary in practice. In this part types of these discrepancies are classified (in relation to general nature protection, special nature protection and Natura 2000), furthermore this section depicts ways of possible solutions of those conflicts provided by current legal regulations and actual practice on their execution. Special accent is placed on institute of reimbursement for aggravation of agricultural and forest management, its legal form, practical problems on its exercitation,

which is caused not only by ambiguity of relevant legal regulation (decision on reimbursement is made aside administrative procedure, absence of sub-statutory legislation governing exact calculations to determine the amount of reimbursement) but also by inconsistency of interpretation and attitude of Ministry of Environment as the central environmental protection state office as well as discontinuity in courts decisions (issues of reimbursement exercised by state enterprises). This part also includes section on issues of providing reimbursement for damages caused by special protected animal species.

Last part of the dissertation deals with environmental protection instruments with special regard on instruments of nature protection; it describes administrative-legal instruments, economical means and voluntary attitudes. This part explains some features on conceptual instruments (action plans of wild fauna species and planning in nature protection), short introduction on providing information on environment status to public is made here and also public engagement into decisive procedures is mentioned. In last part of this section penalty instruments are defined both from criminal and administrative law. It also contains a brief analysis on newly adopted law No. 418/2011 Coll. on criminal liability of legal entities and procedure against them.